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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,993	11/21/2001	Christian Lindholm	367.40892X00	9524

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

EXAMINER

PHAM, TUAN

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/988,993

Applicant(s)

LINDHOLM, CHRISTIAN

Examiner

TUAN A PHAM

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 7-14 have been considered but are moot in view of the new ground(s) of rejection.

A/. In response to applicant's remark on page 6, with respect to claim 7, Applicant argues that the Chiou reference (U.S. No.: 4,993,065) does not teach "means for temporary attaching a free end of the earplug wires to the neck strap to permit the earplug wires to be moveable to enable the at least one earplug to be positioned in an ear of a person wearing the neck strap while the earplug wires are attached to the neck strap " in claim 7.

In response to applicant's arguments as stated above, the Examiner respectfully disagrees with the Applicant's argument. Applicant should refer to the explanation of claim 7 in this Office Action. Therefore, the teaching of Chiou reference still applied.

B/. In response to applicant's remark on page 7, with respect to claim 8, Applicant argues that the Chiou reference (U.S. No.: 4,993,065) does not teach "means, connected to the neck strap, for catching the free end of the wires carrying the least one earplug when removed from the ear".

In response to applicant's arguments as stated above, the Examiner respectfully disagrees with the Applicant's argument. Applicant should refer to the explanation of claim 8 in this Office Action. Therefore, the teaching of Chiou reference still applied.

C/. In response to applicant's remark on page 8, with respect to claim 11, Applicant argues that the Chiou reference (U.S. No.: 4,993,065) does not teach "the neck strap comprises means for temporarily attaching each of two earplug wires to the neck strap, and means connected to the neck strap for catching each free end of the wires carrying respective earplugs".

In response to applicant's arguments as stated above, the Examiner respectfully disagrees with the Applicant's argument. Applicant should refer to the explanation of claim 11 in this Office Action. Therefore, the teaching of Chiou reference still applied.

D/. In response to applicant's remark on page 8, with respect to claims 9-10, Applicant argues that the Prudhomme does not teach " permanent magnet".

In response to applicant's arguments as stated above, the Examiner respectfully disagrees with the Applicant's argument. Applicant should refer to the explanation of claims 9-10 in this Office Action. Therefore, the teaching of Chiou in view of Prudhmme references still applied.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 7-8, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackey (U.S. Patent No.: 5,956,630) in view of Chiou (U.S. Patent No.: 4,993,065).**

Regarding claim 7, Mackey teaches an audio accessory including a neck strap (i.e., radio necklace)(see figure 2, radio necklace 10) having an attachment device (i.e., case) for attaching an audio source to the neck strap (see figure 2, case 12, radio receiver 14, col.3, ln.63-67), whereby the audio source may be carried in the neck strap during normal use (see figure 2, col.4, ln.41-47); and

at least one earplug to be connected to the audio source through a set of wires to be connected to the audio source (see figure 2, earphones 20, col.4, ln.41-47).

It should be noticed that Mackey fails to clearly teach means for temporary attaching a free end of the earplug wires to the neck strap to permit the earplug wires to be moveable to enable the at least one earplug to be positioned in an ear of a person wearing the neck strap while the earplug wires are attached to the neck strap.

However, Chiou teaches such feature (see figure 4, figure 6, earplug wire 22, cord clip 15, col.3, ln.23-32. For example, the cord clip 15 is temporally holding the free end of

the earplug wire 22, which is plug 21. The earplug wire 22 is detachably held by the cord clip 15 that means the earplug wire 22 can move up or down along with the cord clip 15. Furthermore, the earplug 20 can be put in an ear of a person wearing the neck strap while the earplug wire are still attached to the cord clip 15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Chiou, into view of Mackey in order to allow for hands-free operation.

Regarding claim 8, Chiou further teaches an audio accessory, wherein the means, connected to the neck strap, for catching the free end of the wires carrying the least one earplug when removed from the ear (see figure 4, earpiece retainer 13,14, col.3, ln.4-36).

Regarding claims 11 and 12, Chiou further teaches an audio accessory wherein the neck strap comprises means for temporarily attaching each of two earplug wires to the neck strap, and means connected to the neck strap for catching each free end of the wires carrying respective earplugs (see figure 4, earpiece retainer 13,14, cord clips 15, 16, col.3, ln.4-36, cord clips 15, 16 are temporarily holding each of two earplug wires 22, 32 to the neck strap, and earpiece retainer 13, 14 are holding other end of earplug wires 22, 23 respective with earplug 20, 30).

4. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackey (U.S. Patent No.: 5,956,630) in view of Chiou (U.S. Patent No.: 4,993,065) as applied to claim 7 above, and further in view of Prudhomme et al. (U.S. Patent No.: 5,649,316, hereinafter, "Prudhomme").

Regarding claim 9, Mackey and Chiou, in combination, fails to teach a permanent magnet. However, Prudhomme teaches such feature (see col.9, ln.52-63).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Prudhomme into view of Mackey and Chiou in order to easily connect and disconnect the cradle by a magnet.

Regarding claim 10, Chiou further teaches an audio accessory wherein the at least one magnet mounted on the neck strap is mounted at a distance from the means corresponding to a free end of the wires from the means for temporary attaching (see figure 4, retainer 13, cord clip 15, retainer 13 have a distance corresponding with cord clip 15 and free end plug 21).

Regarding claims 13 and 14, Chiou further teaches an audio accessory wherein the neck strap comprises means for temporarily attaching each of two earplug wires to the neck strap, and means connected to the neck strap for catching each free end of the wires carrying respective earplugs (see figure 4, earpiece retainer 13,14, cord clips 15, 16, col.3, ln.4-36, cord clips 15, 16 are temporarily holding each of two earplug wires 22, 32 to the neck strap, and earpiece retainer 13, 14 are holding other end of earplug wires 22, 23 respective with earplug 20, 30).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan A. Pham** whose telephone number is (571) 272-8097. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz can be reached on (571) 272-8097 and

IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL Customer Service at (571) 272-2600 FOR THE SUBSTITUTIONS OR COPIES.

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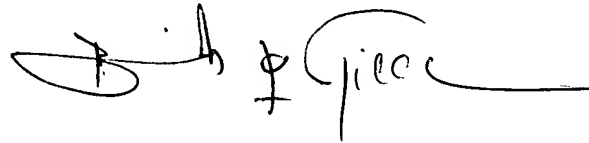
Business Center (EBC) at 866-217-9197 (toll-free).

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April 25, 2005

Examiner

Tuan Pham

A handwritten signature in black ink, appearing to read "Binh Tieu", with a stylized flourish extending to the right.

BINH TIEU
PRIMARY EXAMINER